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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,845	04/20/2004	Alberto Raul Bostal	22922	5303

535 7590 09/27/2005

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EXAMINER

WALCZAK, DAVID J

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/828,845	<b>Applicant(s)</b> BOSTAL, ALBERTO RAUL	
	<b>Examiner</b> David J. Walczak	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,2,4,5 and 7 is/are rejected.
- 7) ☒ Claim(s) 3 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Abstract***

The abstract of the disclosure is objected to because a properly drafted abstract should be in one-sentence form only. Correction is required. See MPEP § 608.01(b).

### ***Drawings***

The drawings are objected to because reference character AS (page 9, line 13) is not present in any of the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: Reference characters MT (Figure 1) and RA (Figures 4 and 6) are not present in the specification and reference character V1 is used to denote both the "spring" and a "valve" (see page 7, lines 19-23. It is lastly noted that the specification is replete with grammatical and syntax errors which should be corrected, i.e., on page 7, line 23, it appears that "en" should be --end--, on page 7, lines 24-25, the phrase "in the pressure decreases in it" is unclear, on page 8, line 5, it appears that "these chamber" should be --this chamber-- and on page 10, the word "Vindications" should be deleted from the top thereof. The Applicant should review the entire specification and correct any and all other such errors that may be present. Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claims are replete with limitations which do not have antecedent basis in the detailed description of the invention, (the portion of the specification following the brief description of the drawings). For example, the limitations "a guide and a stop to the trigger" (claim 1), "restricted air passage" (claim 4) and the structure defined in claim 7 do not have antecedent basis in the detailed description of

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the invention. The claims should be reviewed to ensure that all of the language therein has proper antecedent in the detailed description of the invention.

### ***Claim Objections***

Claims 3 and 6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must refer back to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, claims 3 and 6 have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

Claims 1, 2, 4, 5 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with indefinite language which render said claims difficult to examine. For example, in claim 1, an antecedent basis for "the superior face", "the trigger", "the superior chamber", "the tubular canal" and "the trigger chamber" should be defined, the phrases "in general terms" and "capable this valve" are unclear and there should be no verbiage in parenthesis. In regard to claim 2, an antecedent basis for "the fix parts" should be defined and the phrases "because such a protruding or extending part is retractable" and "being this introduced" are unclear. In regard to claim 5, an antecedent basis for "the upper boarder of the handle" should be defined. In regard to claim 7, it appears that this claim should depend from claim 2, since this claim appears to be defining the spring

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RA, which is present in the embodiment disclosed in Figures 4-6 and defined in claim 2.

Further, the phrase "as vindicated in" (present in all of the claims) is unclear. The claims should be carefully reviewed and revised by the Applicant to ensure that all such indefinite language is corrected.

***Claim Rejections - 35 USC § 101***

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are, as best understood, rejected under 35 U.S.C. 102(b) as being anticipated by Taghavi-Khanghah. Taghavi-Khanghah discloses a toothbrush comprised of a handle 4 having "sliding stop device" 16 that defines the claimed chambers, a trigger 26, first and second valves 24, 34, a tubular canal 8, a brush head 40 and a "lid or cap" 12 wherein the various elements are positioned and operable as claimed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taghavi-Khanghah in view of Glover et al. (hereinafter Glover). Although the Taghavi-Khanghah reference does not disclose the claimed cover, attention is directed to the Glover reference, which discloses another toothbrush wherein a cover 22 is employed to protect the brush head. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such a cover on the Taghavi-Khanghah device in order to enable the brush head to be protected.

***Allowable Subject Matter***

Claim 2 appears to be free of the art.

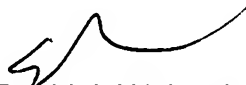
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Walczak  
Primary Examiner  
Art Unit 3751

DJW  
9/26/05